



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL,
ATTORNEY GENERAL**

June 25, 1976

The Honorable Dolph Briscoe
Governor
The State of Texas
State Capitol
Austin, Texas 78701

Opinion No. H-841

Re: Placement of a statue
in the Alamo chapel.

Dear Governor Briscoe:

You have requested our opinion regarding the validity of the placement of a statue in the Alamo Chapel. You state that a private charitable fund has donated a substantial sum to the Daughters of the Republic of Texas for the purpose of constructing a statue depicting four heroes of the Battle of the Alamo. The proposed statue would be approximately eight feet in height and would be mounted on a five foot granite pedestal. In order to place the statue within the Alamo Church, it would be necessary to excavate the base to a depth of approximately four feet.

Acts 1905, 29th Leg., ch. 7 at 7, 8, enacted into law in 1905, directed the Governor to deliver the Alamo Church property, including the Church itself, to the custody and care of the Daughters of the Republic of Texas, to be maintained by that organization as a memorial to the heroes of the Battle of the Alamo. Section 3 of the statute requires that the Alamo Church

be maintained or remodeled upon plans adopted by the Daughters of the Republic of Texas, and approved by the Governor of Texas; provided that no changes or alterations shall be made in the Alamo Church proper, as it now stands, except such as are absolutely necessary for its preservation. (Emphasis added).

It is clear that the statue may not be erected within the Alamo Chapel if its placement therein would require any "change or alteration" in the Church. In Mayer v. Texas Tire & Rubber Co., 223 S.W. 874 (Tex. Civ. App. -- Ft. Worth 1920), the court held that

the word 'alteration,' as applied to a building, means a substantial change therein. 223 S.W. at 875. (Emphasis added).

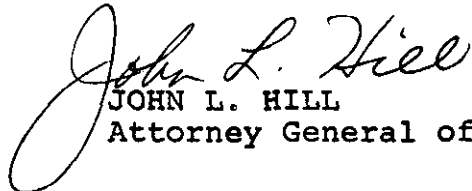
We recently noted that most other jurisdictions agree that "alteration" means a modification or variation that does not destroy the identity of the thing affected. See Attorney General Opinion H-813 (1976), and authorities cited therein. "Alteration," defined as "substantial change," thus denotes a greater degree of modification or variation than does mere "change."

In our opinion, the excavation to a depth of four feet would without question constitute a "change" in the Alamo Church. As a result, we believe that the placement of a statue in the Alamo Church proper which would require such an excavation would violate the terms of the statute.


S U M M A R Y

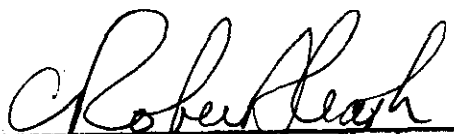
Placement within the Alamo Chapel of a statue which would require excavation to a depth of four feet would violate the terms of Acts 1905, 29th Leg., ch. 7, at 7, 8.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

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DAVID M. KENDALL, First Assistant


C. ROBERT HEATH, Chairman
Opinion Committee

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